

SECOND REGULAR SESSION

# HOUSE BILL NO. 1487

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES POLLOCK (Sponsor), WELLS, DIEHL, FLANIGAN, RIDDLE,  
RUZICKA AND DUGGER (Co-sponsors).

5411L.01I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 393.1020, 393.1025, 393.1030, 393.1040, and 393.1045, and to enact in lieu thereof four new sections relating to renewable energy.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 393.1020, 393.1025, 393.1030, 393.1040, and 393.1045, RSMo, are  
2 repealed and four new sections enacted in lieu thereof, to be known as sections 393.1025,  
3 393.1030, 393.1034, and 393.1039, to read as follows:

393.1025. As used in sections [393.1020] **393.1030** to [393.1030] **393.1039**, the  
2 following terms mean:

3 (1) "Commission", the public service commission;  
4 (2) "Department", the department of natural resources;  
5 (3) "Electric utility", any electrical corporation as defined by section 386.020;  
6 (4) "**Mandate**", the portfolio requirements provided for in subsection 1 of section  
7 **393.1030**;

8 (5) "Renewable energy credit" or "REC", a tradeable certificate of proof that one  
9 megawatt-hour of electricity has been generated from renewable energy sources; and

10 [(5)] (6) "Renewable energy resources", electric energy produced from wind, solar  
11 thermal sources, photovoltaic cells and panels, dedicated crops grown for energy production,  
12 cellulosic agricultural residues, plant residues, methane from landfills, from agricultural  
13 operations, or from wastewater treatment, thermal depolymerization or pyrolysis for converting  
14 waste material to energy, clean and untreated wood such as pallets, hydropower (not including  
15 pumped storage) that does not require a new diversion or impoundment of water [and that]

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 **where each generator at the plant site** has a nameplate rating of ten megawatts or less, fuel  
17 cells using hydrogen produced by one of the above-named renewable energy sources, and other  
18 sources of energy not including nuclear that become available after November 4, 2008, and are  
19 certified as renewable [by rule] by the department.

393.1030. 1. The commission shall, in consultation with the department, prescribe by  
2 rule a portfolio requirement for all electric utilities to generate or purchase electricity generated  
3 from renewable energy resources. Such portfolio requirement shall, **unless reduced as provided**  
4 **for in subsection 3 of this section**, provide that electricity from renewable energy resources  
5 shall constitute the following portions of each electric utility's sales:

6 (1) No less than [two] **seven** percent for calendar years [2011 through 2013] **2014 to**  
7 **2017;**

8 (2) No less than [five] **twelve** percent for calendar years [2014 through 2017] **2018 to**  
9 **2020; and**

10 (3) No less than [ten] **fifteen** percent [for calendar years 2018 through 2020; and

11 (4) No less than fifteen percent in each calendar year beginning in 2021. At least two  
12 percent of each portfolio requirement shall be derived from solar energy] **in each calendar year**  
13 **beginning in 2021.** The [portfolio requirements] **mandate percentages** shall apply to all power  
14 sold to **an electric utility's** Missouri [consumers] **retail customers** whether such power is  
15 self-generated or purchased from another source in or outside of this state. [A utility may  
16 comply with the standard in whole or in part by purchasing RECs.] **RECs associated with**  
17 **energy from a renewable energy resource located in any of the continental forty-eight**  
18 **states shall qualify for purposes of an electric utility's obligation to meet the mandate**  
19 **applicable through December 31, 2016. Only RECs directly associated with energy from**  
20 **a renewable energy resource located in Missouri or located in a state that shares a state**  
21 **boundary with Missouri shall qualify for purposes of an electric utility's obligation to meet**  
22 **the mandate percentages applicable on or after January 1, 2017.** Each kilowatt-hour of  
23 eligible energy generated in Missouri shall count as 1.25 kilowatt-hours for purposes of  
24 compliance.

25 2. [The commission, in consultation with the department and within one year of  
26 November 4, 2008, shall select a program for tracking and verifying the trading of renewable  
27 energy credits.] An unused [credit] **REC** may exist for up to three years from the date of its  
28 creation. A [credit] **REC** may be used only once to comply with [sections 393.1020 to  
29 393.1030] **the mandate** and may not also be used to satisfy any similar nonfederal requirement.  
30 An electric utility may not use a [credit] **REC** derived from a green pricing program.  
31 [Certificates] **RECs** from net-metered sources shall initially be owned by the customer-generator.

32 The commission, except where the department is specified, shall make whatever rules are  
33 necessary to [enforce the renewable energy standard. Such rules shall include:

34 (1) A maximum average retail rate increase of one percent determined by estimating and  
35 comparing the electric utility's cost of compliance with least-cost renewable generation and the  
36 cost of continuing to generate or purchase electricity from entirely nonrenewable sources, taking  
37 into proper account future environmental regulatory risk including the risk of greenhouse gas  
38 regulation;

39 (2)] **implement the provisions of this section.**

40 **3. (1) Notwithstanding the mandates, an electric utility shall have no obligation to**  
41 **provide electricity from renewable energy resources in any calendar year to the extent the**  
42 **net cost of doing so exceeds the amount the electric utility may charge to its customers via**  
43 **the surcharge authorized in this subsection. The cost of renewable energy resources that**  
44 **would have been built or contracted for regardless of the mandate because of its favorable**  
45 **cost or operational characteristics when compared to other possible energy resources shall**  
46 **not be included in the net cost of providing electricity from renewable resources calculation**  
47 **used to determine the surcharge authorized in this subsection or to determine the caps**  
48 **provided for in this subsection. Except for the cost of renewable energy resources that**  
49 **would have been built or contracted for regardless of the mandate because of its favorable**  
50 **cost or operational characteristics when compared to other possible energy resources, the**  
51 **surcharge authorized in this subsection for any calendar year shall include the net costs**  
52 **of providing electricity from renewable energy resources determined as provided in**  
53 **subdivision (2) of this subsection. Notwithstanding the surcharge authorized in this**  
54 **subsection for any calendar year, including the net costs of providing electricity from**  
55 **renewable energy resources, the sums charged to customers via the surcharge authorized**  
56 **in this subsection in any calendar year shall not exceed an amount designed to recover an**  
57 **additional one percent of the electric utility's base rate portion of its revenue requirement**  
58 **used to calculate rates in its most recent general rate case completed at the commission**  
59 **prior to the commencement of the calendar year. The electric utility shall be permitted to**  
60 **recover the net costs through equal percentage surcharges applied to base rates annually**  
61 **outside of the general rate case process, effective January 1, 2013, and each calendar year**  
62 **thereafter, based on the electric utility's estimate of revenues to be received from retail**  
63 **customers during the applicable calendar year. Any overrecovery or underrecovery of the**  
64 **net costs in any calendar year due to variations in revenues from the amount estimated by**  
65 **the electric utility shall be reflected in an adjustment to the surcharge in effect for the**  
66 **following calendar year, which adjustment shall be made to that surcharge effective May**  
67 **first of the following calendar year. Such adjustment shall be in an amount designed to**

68 recover (or return) the prior year's overrecovery or underrecovery by December thirty-  
69 first of the calendar year in which the adjustment is made (based upon the electric utility's  
70 estimated revenues for that calendar year), and it shall not be subject to the one percent  
71 limitation provided for in this subdivision.

72 (2) (a) The calculation of the gross cost of providing electricity from renewable  
73 energy resources for each calendar year shall be determined by adding the following costs  
74 associated with investments in renewable energy resources and contractual commitments  
75 for RECs or electricity from renewable energy resources if the investment was placed in  
76 service, or if the contractual commitment for the RECs or electricity from the resource was  
77 made, on or after January 1, 2012:

78 a. Costs associated with owning, operating, and maintaining such renewable energy  
79 resources, including, but not limited to:

80 (i) A return on the electric utility's net investment in such resources at the rate of  
81 return on rate base specified in the electric utility's most recent general rate proceeding  
82 where such return was specified and where such proceeding was concluded at the  
83 commission prior to the beginning of that calendar year;

84 (ii) Related income taxes and property taxes;

85 (iii) Related operation and maintenance expenses (including applicable  
86 administrative and general expenses); and

87 (iv) Applicable depreciation expenses;

88 b. Cost of RECs;

89 c. Cost of solar rebates;

90 d. Cost to purchase electricity;

91 e. Any applicable administrative and general costs;

92 f. Additional costs incurred to integrate a renewable energy resource due to its  
93 intermittent operating characteristics; and

94 g. Other costs of compliance.

95 (b) The net cost of providing electricity from a renewable energy resource placed  
96 in service by the electric utility on or after January 1, 2012, or energy from renewable  
97 energy resources contractually committed to on or after such date, shall be calculated by  
98 taking the sum of subparagraphs a. to g. of paragraph (a) of this subdivision and  
99 subtracting from such sum only the value of the energy produced from such resources.  
100 The value of the energy produced from such resources shall be calculated by multiplying  
101 the energy produced from such resources by the time differentiated per kilowatt-hour price  
102 in the electric utility's energy rate tariffs, where available and as adjusted for losses, file  
103 biannually with the commission under the provisions of 4 CSR 240-3.155. Where such time

differentiated rates are not available, then the per kilowatt-hour price in the electric utility's energy rate tariffs, as adjusted for losses, under the provisions of 4 CSR 240-3.155 shall be used.

4. Penalties of at least twice the [average market value of renewable energy credits] per kilowatt-hour prices specified in paragraph (b) of subdivision (2) of subsection 3 of this section, as adjusted for losses, in the electric utility's tariff filings under 4 CSR 240-3.155, may be assessed for [the] a given compliance period for failure to meet the [targets of subsection 1] mandates, as such mandates may be reduced by subsection 3 of this section. [An electric utility will be excused if it proves to the commission that] Such penalties shall not apply if the failure was due to events beyond [its] the electric utility's reasonable control that could not have been reasonably mitigated[, or that the maximum average retail rate increase has been reached]. Penalties shall not be recovered from customers. Amounts forfeited under this section shall be remitted to the department to purchase renewable energy credits needed for compliance. Any excess forfeited revenues shall be used by the department's energy center solely for renewable energy and energy efficiency projects;

[3)] 5. [Provisions for] Electric utilities shall submit to the commission an annual report [to be filed by each electric utility] in a format sufficient to document its progress in meeting the [targets;] requirements provided for in subsection 1 of this section.

[(4) Provision for recovery outside the context of a regular rate case of prudently incurred costs and the pass-through of benefits to customers of any savings achieved by an electrical corporation in meeting the requirements of this section.

3.] 6. Except for those electric utilities that qualify for an exemption under section 393.1050, starting January 1, 2013, each electric utility shall make available to its retail customers a [standard] solar rebate [offer of at least two dollars per installed watt] for new or expanded solar electric systems sited on customers' premises, up to a maximum of twenty-five kilowatts per system, that [become] were confirmed by the electric utility to be installed and operational after [2009] 2012. The solar rebate shall be two dollars per watt for qualifying systems confirmed by the electric utility to be installed and operational in 2013, with the rebate per watt to be reduced by twenty-five cents in each succeeding year until the rebate is eliminated for systems that have not been confirmed by the electric utility to be installed and operational by December 31, 2020, as follows: The solar rebates to be paid under this subsection will only be issued to qualified retail customers of the electric utility, and eligibility will be determined based on the requirements contained in the appropriate solar rebate tariff or rider filed by the utility with the commission. The solar rebate will be paid within sixty days of the electric utility's confirmation that the system is installed and operating. Electric utilities shall not be obligated to offer rebate payments for new or

expanded solar electric systems that were not confirmed by the electric utility to have been installed and operating by December 31, 2020. As a condition of receiving a rebate, customers shall transfer to the electric utility all rights, title, and interest in and to the RECs associated with the new or expanded solar electric system that qualified the customer for the solar rebate for a period of ten years from the date the electric utility confirmed that the solar electric system was installed and operational. RECs transferred to the electric utility under this subsection may be used by the electric utility to meet the mandate provided for in subsection 1 of this section. The electric utility may, at its sole discretion, treat the solar rebate payments as a capital expenditure (instead of an expense) for purposes of calculating the net cost of providing electricity from a renewable energy resource under subdivision (2) of subsection 3 of this section during the time period that the electric utility owns the RECs associated with the solar electric system.

[4.] 7. The department shall, in consultation with the commission, establish by rule a certification process for electricity generated from renewable resources and used to fulfill the requirements of subsection 1 of this section. Certification criteria for renewable energy generation shall be determined by factors that include fuel type, technology, and the environmental impacts of the generating facility. Renewable energy facilities [shall not cause undue adverse air, water, or land use impacts, including impacts associated with the gathering of generation feedstocks] **meeting all federal, state, and local laws and regulations shall be deemed to have met all certification requirements.** If any amount of fossil fuel is used with renewable energy resources, only the portion of electrical output attributable to renewable energy resources shall be used to fulfill the [portfolio requirements] **mandate.**

[5.] 8. In carrying out the provisions of this section, the commission and the department shall include methane generated from the anaerobic digestion of farm animal waste and thermal depolymerization or pyrolysis for converting waste material to energy as renewable energy resources for purposes of this section.

**393.1034. Notwithstanding the commission's decision in commission Case No. EO-2005-0329, an electric utility shall be entitled to utilize the cost recovery mechanism provided for in section 393.1030, and the commission shall allow for such recovery.**

**393.1039. The department shall annually assess electric utilities in an amount not to exceed five thousand of one percent of its annual intrastate revenues starting in 2013. Such assessments shall be placed in a special fund, which is hereby created, to be known as the "Agricultural Energy Fund", which shall be devoted solely to the payment of expenditures actually incurred by the department in encouraging and developing biomass energy projects in the state. The state treasurer shall be custodian of the fund. In accordance with sections 30.170 and 30.180, the state treasurer may approve**

8 **disbursements. The fund shall be a dedicated fund and, upon appropriation, money in the**  
9 **fund shall be used solely for the administration of this section. Notwithstanding the**  
10 **provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end**  
11 **of the biennium shall not revert to the credit of the general revenue fund but shall be**  
12 **applicable to the payment of such expenditures of the department on the succeeding fiscal**  
13 **year and applied by the department to the reduction of the amount to be assessed to such**  
14 **electric utilities in such succeeding fiscal year. The state treasurer shall invest moneys in**  
15 **the fund in the same manner as other funds are invested. Any interest and moneys earned**  
16 **on such investments shall be credited to the fund.**

2 [393.1020. Sections 393.1025 and 393.1030 shall be known as the  
3 "Renewable Energy Standard".]

2 [393.1040. In addition to the renewable energy objectives set forth in  
3 sections 393.1025, 393.1030, and 393.1035, it is also the policy of this state to  
4 encourage electrical corporations to develop and administer energy efficiency  
5 initiatives that reduce the annual growth in energy consumption and the need to  
6 build additional electric generation capacity.]

2 [393.1045. Any renewable mandate required by law shall not raise the  
3 retail rates charged to the customers of electric retail suppliers by an average of  
4 more than one percent in any year, and all the costs associated with any such  
5 renewable mandate shall be recoverable in the retail rates charged by the electric  
6 supplier. Solar rebates shall be included in the one percent rate cap provided for  
in this section.]

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